



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

DAVID G. BECK
BINGHAM MCCUTCHEN LLP
3 EMBARCADERO CENTER
SUITE 1800
SAN FRANCISCO CA 94111

COPY MAILED

AUG 30 2006

OFFICE OF PETITIONS

In re Application of :
Nils Peter Nordqvist et al. :
Application No. 10/023,264 : DECISION ON RENEWED PETITION
Filed: December 18, 2001 : UNDER 37 C.F.R. §1.55(C)
Attorney Docket No. 22645-7202 :
Title: HEARING PROSTHESIS WITH :
AUTOMATIC CLASSIFICATION OF THE :
LISTENING ENVIRONMENT :

This is a decision on the renewed petition filed on April 13, 2006 under 37 C.F.R. §1.55(c) to accept to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of a prior-filed foreign application, as set forth in the concurrently filed Application Data Sheet (ADS).

The original petitions under 37 C.F.R. §1.78(a)(3) and 37 C.F.R. §1.55(c) were filed on August 19, 2005. A decision was mailed on January 13, 2006, granting the former and dismissing the latter for failure to include the priority information in either an oath or declaration or in an Application Data Sheet in accordance with 37 C.F.R. 1.76(b)(6). With the present petition, Petitioner has included a one-month extension of time which is unnecessary as the rule does not require an extension of time for the submission of a subsequently filed renewed petition. Accordingly, this \$120 extension of time fee assessed to Petitioner's Deposit Account will be refunded in due course.

The renewed petition under 37 C.F.R. §1.55(c) is DISMISSED.

A petition under 37 C.F.R. 1.55(c) to accept an unintentionally

delayed claim for priority requires:

- (1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
- (2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and be included either in an oath or declaration (37 C.F.R. 1.63(c)(2)) or in an Application Data Sheet (37 C.F.R. 1.76(b)(6));
- (3) the surcharge as set forth in 37 C.F.R. 1.17(t);
- (4) a statement that the entire delay between the date the claim was due under 37 C.F.R. 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and
- (5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The present pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Therefore, since the claim for priority is submitted after the period specified in 37 C.F.R. 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 C.F.R. 1.55(c).

Intermediate application number PCT/DK01/00226 was filed on April 4, 2001, within 12 months of April 4, 2000, (the filing date of the foreign application to which benefit is now being claimed). Regarding the petition fee, Petitioner has submitted \$400, and the fee which is associated with the filing of a petition seeking the acceptance of an unintentionally delayed claim for priority is \$1370 - the difference has been charged to Petitioner's Deposit Account, as authorized in the petition. Lastly, Petitioner has provided an adequate statement of unintentional delay.

On April 13, 2006, an ADS was received which identifies the foreign application for which priority is claimed by application number, country and filing date. This ADS has been reviewed, and it is noted that Petitioner has listed intermediate application number PCT/DK01/00226 not as a continuation of the present application, but rather in the section entitled "Foreign Priority Information." As such, Petitioner's claim for priority is improper, and the present petition under 37 C.F.R. 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) cannot be granted.

Telephone inquiries regarding this decision should be directed to Paul Shanoski at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

A handwritten signature in cursive script, appearing to read "Frances Hicks", is written over the printed name.

Frances Hicks

Petitions Examiner
Office of Petitions
United States Patent and Trademark Office